IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#8 Elec

In re Application of:

Albrecht E. SIPPEL et al. Examiner: Z. Lucas

Serial No.: 09/869,709 Group Art Unit: 1648

Filed: October 18, 2001

Title: METHOD FOR THE CELLULAR HIGH-THROUGHPUT-DETECTION OF RECEPTOR LIGAND INTERACTIONS

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Responsive to the Office Action of January 15, 2003, Applicants hereby elect Group I, and subgroup A2, and also subgroup E-1 with traverse.

The Examiner has arbitrarily and academically divided up the subject matter into a wide number of groups and subgroups without any attention being paid at all to the overriding purpose for restriction, i.e., to reduce the amount of searching to a manageable degree. The MPEP makes clear that this is a primary purpose of restriction because whenever an undue searching burden is not needed, an Examiner should examine the full scope possible until the searching burden becomes undue. Here, the Examiner has not even alleged an undue searching burden in examining a scope broader than the small pigeonholes so arbitrarily defined.

For example, it is not understood how a search of Group I (ligand binds to a receptor) and Group II (no ligand binding) would encompass an undue searching burden. The involved searches would be co-extensive. The same thing is essentially true for the other groups. Similarly, for the subgroups, the defined mechanisms do not *per se* define any increase in searching burden, all depending on the nature of the classification system. Thus, the Examiner is strongly urged from a fairness standpoint to reformulate the restriction requirement such that there is no undue searching burden, of course, but also such that the amount of subject matter

searched is not arbitrarily minimized with subdivisions bearing no relationship to searching burden.

Moreover, it is noted that subgroups A2, A3, A4, and A5, drawn to various kinase aspects, are just that, i.e., all kinases. No separation is needed with respect to searching burden. For groups C-i, C-ii, C-iv, similarily, these receptors are not separated from one another in the cell and no searching burden is evident. The same thing is true for D-2 and D-3 which are related in that a number of inhibitors inhibit both kinases.

Thus, reconfiguration of the restriction requirement is solicited.

No fee is believed to be due with this response, however, the Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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Date: March 17, 2003

I hereby certify that this correspondence is being deposited with the U.S. Postal Services as First Class Mail in an envelope addressed to: Assistant Commissioner For Patents, Washington, D.C. 20231 on: March 17, 2003
Name: Janice Kosier
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Date: March 17, 2003